

FILED 11 MAR 23 13:00USDC:ORM

1 Denise and Kenneth Cook
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 3 300 Newt Gulch Rd
 4 Wilderville, OR 97543
 5 541-761-0165

6 **UNITED STATES DISTRICT COURT**
 7 **FOR THE DISTRICT OF OREGON**

DENISE and KENNETH COOK,

Plaintiffs,

v.

BENEFICIAL OREGON INC., a Delaware Corporation;

SHAPIRO & SUTHERLAND, LLC, a Washington State LLC;

Defendants.

} **Case No. 10-CV-3121-PA**

} **PLAINTIFFS VERIFIED RESPONSE TO DEFENDANT SUTHERLAND'S DECLARATION.**

8 Plaintiffs Denise and Kenneth Cook respectfully submit this response to defendant Sutherland's
 9 Declaration (dkt #34).

10 **I. INTRODUCTION**

11 1. Plaintiffs primary contention is that defendants were not holder in due course of the
 12 security instrument (promissory note) in July, 2010 (at which time defendants started a foreclosure
 13 process) for the property commonly known as 300 Newt Gulch Rd., Wilderville OR (NG Property).

14 2. Defendant Beneficial has failed to comply with this courts order (dkt #22, pg 2) :
 15 "Within 10 days, defendant shall submit a chain of title for the
 16 Promissory Note and Deed of Trust at issue. This chain of title should
 17 include all transfers/assignments/etc of any interest, including the
 18 beneficial interest, in the note and the deed. **Defendant shall also submit**
 19 **information regarding the present location of the original note.**

Defendant shall obtain possession of the original note and produce it upon the courts request."

II. ANSWER

1. Without knowledge.

2. Denied. Defendant Beneficial has not shown they were holder in due course of
negotiable note in July 2010. Defendants have failed to comply with this courts order (dkt #22, pg 2).
any actions without lawful authority are null and void including defendant Beneficial assigning
defendant Sutherland as "Successor Trustee".

3. Denied. Defendants have not shown they were holder in due course of promissory note.

4. Denied. Defendants have not shown they were holder in due course of promissory note.

5. Admitted, but unlawfully so since defendant Beneficial was not holder in due course in 2010 and has failed to comply with this courts order (dkt #22, pg2).

6. Pursuant to LR 56-1(b), Objection: Relevance. Not material to case.

33 2nd No. 6. Objection: Relevance. Not material to case.

34 7. Objection: Relevance. Not material to case.

35 8 Denied Plaintiff Kenneth Cook affidavit (S)

36 affidavit).

37 9. Denied. Plaintiffs don't believe there was any public sale. Plaintiff Kenneth Cook's

38 affidavit (Offer of Proof, Exhibit 19). In addition, the seller and buyer were one and the same party-
39 defendant Beneficial (dkt #13-3, pg 3 ¶ 2).

40 Submitted this 23 day of March, 2011.

41 Denise Cook
42 Denise Cook.

42 Denise Cook

_____, 2011.
Kenneth Cook
Kenneth Cook.

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CERTIFICATE OF SERVICE

UNDER PENALTY OF PERJURY, I CERTIFY that a copy of the foregoing was provided by U.S. Mail on this 23 day of March, 2011 to:

Bishop, white, marshall, & weibel ATTORNEYS
720 Olive Way Suite 1201
Seattle WA 98101-1801

LawOFFices OF
Shapiro & Sutherland LLC
5501 NE 109th Court, Suite N
Vancouver, WA 98662

Denise Cook

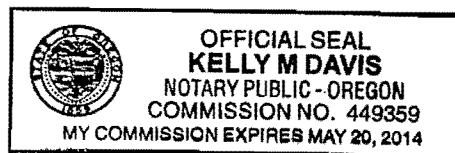
Denise Cook, *pro se*
300 Newt Gulch Rd.
Wilderville, OR 97543
541-761-0165

STATE OF OREGON, COUNTY OF JOSEPHINE

BEFORE ME personally appeared Denise Cook who, being by me first duly sworn and identified in accordance with Oregon law, did execute the foregoing in my presence this 23 day of March 2011.

Kelly M. Davis
Notary Public
My Commission expires:

May 20, 2014



VERIFICATION

STATE OF OREGON
COUNTY OF JOSEPHINE

BEFORE ME personally appeared Denise Cook and Kenneth Cook, being by me first duly sworn and identified in accordance with Oregon law, deposes and says:

1. Our names are Denise Cook and Kenneth Cook, plaintiffs herein.
2. We hereby declare under penalty of perjury that we have read and understood the documents listed below and filed herein, and each fact alleged therein is true and correct of my own personal knowledge.

Plaintiffs Motion for Summary Judgment

Plaintiffs Concise statement of Material Facts in Support of Motion for Summary Judgment

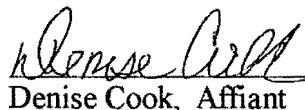
Plaintiffs Opposition to Defendant Beneficial's Motion for Summary Judgment

Plaintiffs Response to Defendant Beneficial's Concise Statement of Facts

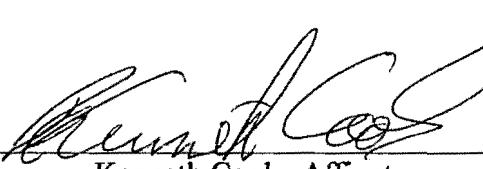
Plaintiffs Response to Defendant Beneficial's Phyllis Johnston Declaration

Plaintiffs Opposition to Defendant Sutherlands Motion for Summary Judgment

Plaintiffs Response to Defendant Sutherland's Motion for Summary Judgment

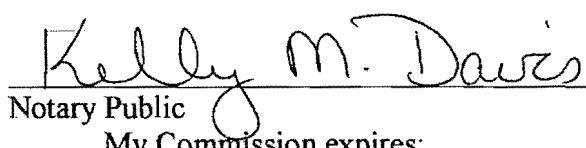


Denise Cook, Affiant



Kenneth Cook, Affiant

SWORN TO and subscribed before me this 23rd day of March, 2011.



Notary Public
My Commission expires:


May 20, 2014

